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SUBJECT: 2009 MEETING OF THE SPECIAL COMMITTEE ON THE
CHARTER OF THE UNITED NATIONS

11. Summary: The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization ("Charter Committee"), a sub-Committee of the General Assembly Legal Committee, held its annual meeting at UN Headquarters February 16-20, 23-25. The Committee focused on the Russian working paper aimed at establishing basic conditions and criteria for the use of sanctions and made significant progress, but did not reach consensus. The Committee's report to the General Assembly (A/AC.182/2009/CRP.1) can be found at <http://www.un.org/documents>. End Summary.

12. During the Charter Committee's opening session, USUN delivered a brief statement addressing issues on the agenda. Among other things, USUN argued that many of the long-standing issues before the Committee have been addressed elsewhere and said the Charter Committee should not aim to devise norms concerning the design and implementation of sanctions. Other delegations making formal opening statements were the Czech Republic (on behalf of the European Union), Cuba (on behalf of the Non-aligned Movement (NAM)), Senegal (on behalf of the African Union (AU)), Mexico (on behalf of the Rio Group), the Russian Federation, China, Azerbaijan, Turkey, Japan, Iran, the Republic of Korea (ROK) and the Democratic Peoples Republic of Korea (DPRK). The DPRK said that the U.S. and the ROK continue to violate the UN Charter due to the presence of U.S forces on the Korean peninsula. The ROK responded by stating that the UN legally established its Unified Command on the Korean peninsula under UNSCR 84 adopted on July 7, 1950.

Russian Sanctions Paper

13. (SBU) The Charter Committee focused its discussions on Russia's paper on the basic conditions for imposition of sanctions. Much of the discussion on the paper involved Cuba (on behalf of the NAM), the Czech Republic (on behalf of the EU), the U.S. and Russia. After several days of intense negotiations, NAM delegations supported the paper and pressed for its immediate adoption. The EU also signaled its willingness to adopt the paper, but ultimately had issues with the way the subject of humanitarian assistance was captured and could not join consensus. (Comment: The EU's decision to engage reflected its assessment that, in light of significant amendments the Russians had made to accommodate delegation's concerns, it would be preferable to agree to the paper, rather than having to deal with Sudan in the future, (Cuba's successor representing the NAM.) End Comment.) Many of U.S. concerns were taken into consideration, although the NAM held strong to include language from General Assembly Resolution (51/242) "Agenda for Peace."

14. Although the Charter Committee did not reach consensus on the Russian paper, it did agree to recommend that the Sixth Committee consider it, with a view to adopt the paper at its next meeting. The paper, without bracketed text, is annexed to the Charter Committee's report.

Other issues: Maintenance of International Peace and Security

¶15. The Charter Committee also briefly addressed, but reached no conclusions on, the implementation of the provisions of the UN Charter relating to assistance to third States affected by sanctions, Libya's 2002 working paper on sanctions, and Cuba's 2009 working paper (A/AC.182/L.93/Rev.1) on strengthening the role of the UN and enhancing its effectiveness.

¶16. Belarus reiterated the importance of its 2005 working paper, prepared with the Russian Federation, recommending that the General Assembly request an advisory opinion from the International Court of Justice (ICJ) on the legal consequences of the use of force by states without prior authorization by the Security Council, except in the exercise of the right to self-defense. A number of NAM delegations supported the proposal, but the Committee did not reach consensus and it will remain on its agenda for future discussion.

Repertory of Practice of UN Organs,
Repertoire of the Practice of the Security Council

¶17. The Secretariat briefed the Committee on the status of the preparation of the Repertory and the Repertoire, and its ongoing efforts to reduce their respective backlogs. The Secretariat advised that advance versions of supplements 14 and 15 were available on the Internet and that groundwork for

the preparation of supplement 16 was already under way with the systematic tracking and recording of the most contemporary practice of the Security Council. At the conclusion of the meeting, the Committee agreed, among other things, to recommend that the General Assembly reiterate its call for voluntary contributions to the trust funds for the Repertoire and the Repertory and call upon the Secretary-General to continue his efforts to update the two publications.

Working Methods

¶18. Mexico, on behalf of the Rio Group, took the proposal by the Group entitled "Consideration of the legal aspects of the reform of the United Nations" off the table for consideration by the Committee. Mexico reiterated that the aim of the concrete proposal was to consider the relevant aspects of the reform of the General Assembly. Mexico also stated that the Rio Group would reserve its right to revert to this proposal at future sessions of the Committee, if conditions were deemed appropriate.
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